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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 CHRISTOPHER BERLIN ROBERTS,) Civil No. 01cv0057-L(POR)
12 Petitioner,)
13 v.) **ORDER DENYING PETITIONER'S**
14) **MOTION FOR DEFAULT**
15 STEVEN CAMBRA, Jr., Interim Director,)
16 Respondent.)
17 _____)

18 Petitioner, Christopher Berlin Roberts, a state prisoner proceeding *pro se*, filed a petition
19 for writ of habeas corpus under 28 U.S.C. § 2254. He moves for default based on Respondent's
20 alleged untimely service of an opposition to Petitioner's motion for leave to amend.

21 Pursuant to the court's April 11, 2007 order, Respondent's opposition to Petitioner's
22 motion for leave to amend was due no later than June 11, 2007. On June 8, 2007, Respondent
23 timely filed the opposition. The proof of service indicated Petitioner was served by mail on the
24 same date at his address at Calipatria State Prison ("Calipatria"). On June 22, Respondent again
25 served Petitioner with the same documents at his address at Salinas Valley State Prison ("Salinas
26 Valley"). Based on Petitioner's motion for default, it is apparent Petitioner received the second
27 service but not the first. Petitioner argues Respondent engaged in misconduct by serving him
28 long after the opposition was filed with the court. The court disagrees. From the docket it

1 appears Petitioner was moved from Calipatria to Salinas Valley. He did not file a notice of
2 change of address as required by local rules. *See* Civ. Loc. R. 83.11(b). Respondent served
3 Petitioner at Calipatria, his address of record. Apparently when Respondent realized this was no
4 longer a good address, he served Petitioner at his new address in Salinas Valley. Accordingly,
5 the court disagrees that Respondent engaged in any kind of misconduct with regard to the
6 service of his opposition papers.

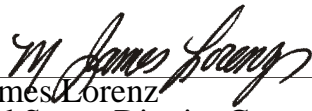
7 For the foregoing reasons, **IT IS HEREBY ORDERED:**

8 1. Petitioner's motion for default is **DENIED**.

9 2. Petitioner shall forthwith serve and file a notice of change of address to reflect his
10 correct address for service.

11 **IT IS SO ORDERED.**

12
13 DATED: October 17, 2007

14 
15 M. James Lorenz
United States District Court Judge

16 COPY TO:

17 HON. LOUISA S. PORTER
UNITED STATES MAGISTRATE JUDGE

18 ALL PARTIES/COUNSEL
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